

PREPARED BY KATHY LINDSEY

MINUTES

Policemen's Pension and Relief Fund

Thursday, December 10, 2009

9:00 a.m.

On Thursday, December 10, 2009 at 9:00 a.m., a meeting of the Board of Trustees of the Policemen's Pension and Relief Fund of the City of Little Rock, Arkansas was held in the Sister Cities Conference Room at City Hall.

PRESENT:	Bruce Moore	Chairman
	Farris Hensley	Secretary
	Sara Lenehan	Treasurer
	Lee Harrod	Member
	Brad Furlow	Member
	Mike Lowery	Member
	David Rowan	Member

ABSENT: None

Also present were Mr. Larry Middleton and Mr. Alex Jordan, Stephens Capital Management Financial Consultants for the Fund; Mr. John Peace and Mr. Dean Overstreet, Dover Dixon Horne Law Firm Legal Consultants for the Fund; Mr. Roger Smith, Government Relation Lobbyist for the Fund; Mr. Ron Bullerwell, Mr. Bill Lynch, Mr. James Chandler, Mr. Don Wells, Mr. Donald Wood, Mr. Rusty Watson, Mr. Ed Etheridge, and Mr. Steve Young, Retired Members of the Fund; Mr. David Clark, Arkansas Fire & Police Pension Review Board, (PRB); and Mrs. Kathy Lindsey, Pension Fund Administrative Staff.

Mr. Moore called the meeting to order at approximately 9:06 a.m., certifying that a quorum of the Board was present and that the media had been properly notified in a letter dated December 8, 2009 to the Arkansas Democrat Gazette.

Copies of the November minutes had previously been submitted to Board members the day before the meeting so Mr. Hensley made a motion to table approval of the minutes until the January meeting to allow members to review them. Mr. Harrod seconded the motion and it passed unanimously.

Mr. Middleton and Mr. Jordan gave the November 2009 financial report and stated as of November 30, 2009 the market value of the total Fund was \$47,497,818, including accrued income of \$60,664 of which \$24,186,425.63 was allocated to DROP accounts. This represents an increase in the account balance of \$1,116,749 since October 31, 2009. The component of this change was income of \$56,371, and net contributions of \$1,535. Additionally, \$1,054,981.03 was held in the Metropolitan Checking Account. The Funds overall market rate of return for the month of November 2009 was 2.39% and 7.47% calendar year to date.

Mr. Jordan stated that DROP money can not be invested long term so therefore it adversely affects the overall long term return of the plan. Mr. Middleton stated that the fund has not fully

recovered from the market decline that has been experienced in the past, although the fund has started improving. Mr. Middleton said there will continue to be a low interest rate environment with inflation beginning in the relatively near future. He also predicted there will continue to be deterioration in the real estate markets

Mr. Lowery stated members have asked him why this pension plan has not had returns like other plans have had. Mr. Jordan answered that question by using a comparison of a plan with seventy million dollars in the plan with nine million in DROP compared to this plan that has forty eight million with twenty four million of that being allocated to DROP. Therefore this plan does not have the flexibility that other plans have and also, the compared plan has not invested in real estate.

Mr. Smith said the legislature will meet late January or early February to discuss budget issues. Some legislature members are not happy with retirement issues regarding Arkansas Public Employees Retirement System (APERS) and Teacher retirement concerning double dipping and they will be discussing these matters. Progress has been made with the Pension Review Board (PRB) and Arkansas Local Police and Fire Retirement System (LOPFI) Board understanding the need for the various Police and Fire retirement systems concerning the funding formula.

Mr. Overstreet reported there is no new information concerning the benefit increase lawsuit. The briefs have been written and submitted to the Court. Mr. Overstreet expects after the first of the year for the Court to schedule an oral argument in order for the Court to ask questions and discuss matters in the brief. After that, the Court will issue a decision on the case.

Mr. Peace had previously submitted a written legal opinion regarding the \$50 benefit increase. The opinion was submitted from Dover Dixon and not Mr. Peace himself. Three attorneys from the law firm looked over the document for accuracy and signed off by Mr. Peace and Mr. Overstreet which is Dover Dixon's policy. The findings are a three step process. First, the Board adopts a resolution for a benefit increase, subject to review from PRB. Second, the PRB certifies whether that benefit can be made and third for the board to implement the increase. The first and second steps have been taken and since the third step has not occurred yet, the benefit increase resolution can be amended or rescinded.

Mr. Clark addressed the Board and stated that PRB held their meeting two days earlier on December 8, 2009 and the topic of this benefit increase was discussed. The PRB did concur that the decision to implement a benefit increase does rest with the local board. That was the opinion provided by PRB's legal counsel and PRB does support that advice. A concern to some board members was that insurance premium tax would be withheld if the increase was not implemented. The PRB made a motion, seconded, and passed unanimously, that they will not withhold insurance premium tax if a local board, for reason that they want to protect the solvency of the pension fund, does not implement an increase after it has gone through the PRB review.

Mr. Hensley asked Mr. Clark when the PRB receives the actuarial analyze from the State Actuary, does PRB have any option other than to certify or not to certify, based on the actuarial analyze? Mr. Clark stated he does not. Mrs. Lenehan asked Mr. Clark if an actuarial study had been conducted since the motion to grant an increase, and does it have any bearing to move forward with that increase at this time. Mr. Clark stated that the PRB addressed that topic at the meeting also, and reaffirmed PRB Rule 13, a pension fund is deemed actuarial sound if a cash flow suggested and remained actuarial sound until a new cash flow or regular evaluation was released, that will mitigate

the results of the benefit evaluation. In the past, evaluations were made every other year and a change was made at the last PRB meeting conducting evaluations annually instead of every other year. This has caused the \$50 benefit increase evaluation to have expired since a new evaluation has been released to the pension fund.

A few retirees wrote letters to the pension fund demanding final payment on the \$50 increase. Mr. Moore gave the letters to the attorney and stated he did not think any further action was required on this matter. Mr. Hensley asks when action would be taken because in a previous meeting, Mr. Peace indicated if a demand was made, he thought the \$50 would have to be paid. Mr. Peace stated he did not remember making that comment. Mr. Moore asked legal counsel to review the letters and respond in writing by the next meeting

Mr. Hensley said he had been asked by Ms. Tamara Ponomareff if the \$50 benefit increase passes, could she designate that portion of her pension to another member that needs it more than she does. When asked by legal counsel, Mr. Peace said that decision would fall on the discretion of the local board, although the member would still be taxed on their full pension benefit. A policy regarding this matter will be placed on the January Agenda.

Mr. Moore requested that a comment section be added to future agendas to allow members to address the board.

At 10:15 a.m., Mr. Moore called for a motion to take a 5 minute recess. Mrs. Lenehan made the motion. Mr. Lowery seconded and it passed unanimously. Mr. Moore called the meeting back to order at 10:26 a.m.

Questions were addressed further to Mr. Clark regarding the benefit increase and annual evaluations. Mr. Clark stated that expiration dates would be added to benefit increases and he would follow up in his letter with the expiration dates. Mr. Clark stated again that the most current evaluation results would have to be the one used.

A poll along with information regarding the \$50 benefit increase was mailed to each member of the pension fund asking if they were in favor or not in favor of implementing the increase. The results were 203 in favor and 33 not in favor of implementing the benefit increase.

Mr. Hensley made a motion to approve distribution of the \$50 increase and Mr. Harrod seconded the motion. Mr. Furlow gave a lengthy presentation explaining why he was voting against the increase. He explained that the Fund had lost a substantial portion of its assets since the benefit increase cash flow analysis, and could not risk further depleting its assets. After a lengthy discussion and hearing from Mr. Bullerwell, Mr. Wood, and Mr. Wells, Mr. Rowan expressed his appreciation to the member's comments and stated that he is against the \$50 increase. Mr. Rowan explained that he had examined the reports for the fund and did not believe the fund could afford the increase. He stated when the actuarial study was compiled, the market value evaluation was \$66 million, and the financial statement as of December 2008 showed the fund had \$50 million and as November 2009 the fund had \$47,558,000, therefore, he could not vote for the increase. Mr. Harrod stated that members have received this information; the Board Members represent the members of the fund and with the poll results showing 203 to 33, he believes the fund can afford the raise. Mr. Hensley said that the cash flow analysis had determined that the Fund would be actuarially sound following implementation of

the relatively small benefit increase and the membership had clearly spoken in the overwhelming results of the vote. The vote was taken and the motion failed five to two with Mr. Moore, Mrs. Lenehan, Mr. Rowan, Mr. Furlow, and Mr. Lowery voting against and Mr. Hensley and Mr. Harrod voting for.

Mr. Moore stated that the attorneys' recommendation, even though the motion failed, was that a motion needed to be made to rescind the resolution that was passed May 2008. Mr. Furlow made a motion that due to the substantial reduction in fund assets subsequent to May 8, 2008 and the reports of the fund's actuary subsequent to May 8, 2008, I believe to implement the benefit increase at this time would jeopardize the actuarial soundness of the fund. Therefore, I move that the board rescind the resolution for a benefit increase adopted on May 8, 2008 and that the benefit increase not be implemented. Mrs. Lenehan seconded the motion. Mr. Moore asked if there was any further discussion. Mr. Hensley asked if all that was the motion and Mr. Moore replied it was. The vote was then taken and the motion passed five to two with Mr. Moore, Mrs. Lenehan, Mr. Rowan, Mr. Furlow, and Mr. Lowery voting for and Mr. Hensley and Mr. Harrod voting against.

Mr. Harrod requested a different lead attorney to represent the pension fund rather than Mr. Peace. Mr. Harrod stated that Mr. Peace's fees were too expensive and when Mr. Peace's opinion is requested, that opinion has to be researched. Mr. Moore explained that if board members are not happy with counsel, the time to discuss the past performances is when the process begins to hire new legal counsel. Mr. Moore stated he would like for the attorneys to address their charges. Mr. Overstreet commented and stated there is not a lead attorney and fees are set by the firm. Mr. Furlow stated he thought it was unfair to the attorney's when a board member wants an answer then rather than allow for Mr. Peace to research. Mr. Peace stated that when Dover Dixon submitted their bid for the request for qualifications (RFQ), the request stated that Mr. Peace would be handling pension matters and Mr. Overstreet would handle litigation matters if Dover Dixon was chosen for the fund.

Mr. Harrod made a motion for Mr. Overstreet to bring Ms. Amy Bagnell, which is an employee with Dover Dixon, to the January meeting in order for the board members to interview her for lead attorney. Mr. Hensley seconded the motion. Mr. Overstreet stated he had previously said there is not lead attorney's with Dover Dixon so Mr. Moore ask for an amendment to Mr. Harrod's motion. Mr. Harrod withdrew his motion and stated he would vote to change law firms when the scheduled review is addressed on the agenda. Mr. Hensley then withdrew his second.

Mr. Furlow asked to table the motion to adopt Robert's Rule of Order until the January meeting.

The policy for the pension board is to review contracts at least every five years. Mrs. Lindsey reported Stephens started reporting the finances for the plan in September 2004, Dover Dixon started in October 2005, and Roger Smith's contract ends December 2009.

Mr. Rowan made a motion for pension staff to supply the board a Request for Qualifications (RFQ) in January for financial advisor. Mr. Furlow seconded. The motion passed six to one with Mr. Moore, Mrs. Lenehan, Mr. Rowan, Mr. Furlow, Mr. Lowery and Mr. Hensley voting for and Mr. Harrod voting against. Mr. Harrod stated he was happy with Stephens but proceed with sending out an RFQ.

Mr. Harrod made a motion for pension staff to supply the board a RFQ in January for legal counsel. Mr. Hensley seconded the motion. Mr. Rowan asked since Dover Dixon was representing the fund regarding the current lawsuit, why would the fund want to take on new representation. Mr. Moore stated that two law firms would be representing the plan until the lawsuit is settled. Mr. Lowery stated it would be very costly changing law firms at this point since the lawsuit has not been settled and Dover Dixon has been representing the board for four years. He thinks a standard needs to be set by continuing with reviewing contracts every five years. Mr. Hensley stated he did not understand Mr. Lowery's logic and he thought everything regarding the lawsuit had been submitted to the Court and waiting for the Judge to make a ruling. A vote was then taken and the motion failed five to two with Mr. Moore, Mrs. Lenehan, Mr. Rowan, Mr. Furlow, and Mr. Lowery voting against the motion and Mr. Hensley and Mr. Harrod voting for.

Mr. Moore asked if Mr. Smith's contract was with the option to renew. A five minute recess was called at 12:15 pm for Mr. Smith's contract to be reviewed. Mr. Moore called the meeting back to order at 12:20 pm. After reviewing Mr. Smith's contract, Mr. Moore stated a RFQ was needed for proposals for a lobbyist, due to the contract not stating the contract had the option to renew. Mr. Hensley made a motion to renew Mr. Smith's contract for a two year period using the current language in the contract. Mr. Harrod seconded the motion and it passed unanimously. Mr. Smith will provide Mr. Peace with a new contract for the Board to approve.

No report was made on the distribution of premium insurance tax funding so this item will be removed from the agenda.

Mrs. Lenehan submitted copies of the un-audited financial report for November 2009. Losses to the plan year to date through November 30, 2009 were (\$1,837,803). The report indicated that as of November 30, 2009, the total account fund balance including the DROP was approximately \$48,538,340. The net gain for the month of November was \$1,677,394.

Also submitted were copies of the November 2009 expense and legal fee reports. Total expenditures, excluding benefit related expenses, were \$2,211.87 for the month. Total expenditures through November 30, 2009 were \$32,940.24. Legal fees paid were \$47,973.09 year to date through November 2009.

Following review of the November financial and expense reports, Mr. Rowan made a motion to approve them as submitted. Mr. Furlow seconded the motion and it passed unanimously.

Mr. Lowery reported that Ms. Garrett is current with payment through the month of November.

Mr. Furlow reported that he received feedback on the figures he quoted in his letter that was mailed out regarding the benefit increase stating the \$50 increase would be an additional \$180,000 expense annually to the fund. Mr. Furlow therefore as a follow up, requested the number of members in the fund. A report was compiled and submitted by Mrs. Lenehan to the Board Members with the breakdown of members in the fund. There are 216 retired members, 11 qualified domestic relations orders (QDRO's), 64 spouses, 16 on continued employment, and 19 still active in DROP, for a total of 326 members in the fund. And as members on DROP cease employment and members decease, this causes a change in these figures on a monthly basis.

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Mr. Lowery made a motion to add Ms. Tammy Stafford to the pension roll in the amount of \$556.26 due to Mr. Mark Stafford's pension being split $\frac{1}{2}$ of 16/32 per a QDRO. Mr. Hensley seconded the motion and it passed unanimously.

Upon conclusion of Pension Board business, Mr. Lowery made a motion to adjourn the meeting. Mr. Hensley seconded the motion, and meeting adjourned at approximately 12:39 p.m.

PREPARED BY KATHY LINDSEY

Respectfully Submitted,

Farris Hensley
Board Secretary